

A634-1

Najarian Furniture Company, Inc.

## ORDER

<sup>1</sup>The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

The Department and Najarian having entered into a Settlement Agreement, incorporated herein by this reference, whereby the parties have agreed to settle this matter; and

I, the Assistant Secretary for Export Enforcement, having approved the terms of the Settlement Agreement:

IT IS ORDERED THAT,

FIRST, a civil penalty of \$4,000 is assessed against Najarian;

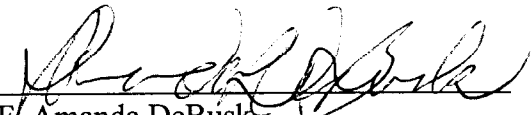
SECOND, Najarian shall pay to the Department the sum of \$4,000 in the following matter, upon service of this Order: \$1,000 on or before August 01, 1999; \$500 on or before October 31, 1999; \$500 on or before January 31, 2000; \$500 on or before April 30, 2000; \$500 on or before June 30, 2000; \$500 on or before September 30, 2000; and \$500 on or before January 31, 2001;

THIRD, pursuant to the Debt Collections Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)), the civil penalty owed under this Order accrues interest as more fully described in the attached Notice, and, if payment is not made by the due dates specified herein, Najarian will be assessed, in addition to interest, a penalty charge and an administrative charge, as more fully described in the attached Notice.

FOURTH, as authorized by Section 11(d) of the Act, the timely payment of the sum of \$4,000 is hereby made a condition to the granting, restoration or continuing validity of any export license, permission, or privilege granted, or to be granted, to Najarian. Accordingly, if Najarian should fail to pay the sum of \$4,000 in the manner prescribed by this Order, I will enter an Order under the authority of Section 11(d) of the Act denying all of Najarian's export privileges for a period of one year from the date of the entry of this Order; and

FIFTH, the Proposed Charging Letter, the Settlement Agreement and this Order shall be made available to the public, and a copy of this Order shall be served upon Najarian.

This Order is effective immediately.

  
F. Amanda DeBusk  
Assistant Secretary for Export Enforcement  
Bureau of Export Administration

Entered this 26<sup>th</sup> day of July, 1999

## INSTRUCTIONS FOR PAYMENT OF CIVIL PENALTY

1. The check should be made payable to:

U.S. Department of Commerce

2. The check should be sent to:

Ms Zoraida Vazquez  
U.S. Department of Commerce  
Bureau of Export Administration  
14th Street & Constitution Ave., NW.  
Room H-6881  
Washington, D.C. 20230

## NOTICE

The Order to which this Notice is attached describes the reasons for the assessment of the civil monetary penalty and the rights, if any, that Najarian may have to seek review, both within the U.S. Department of Commerce and the courts. It also specifies the amount owed and the dates by which payment of the civil penalty is due and payable.

Under the Debt Collection Act of 1982, as amended (31 U.S.C.A. §§ 3701-3720E (1983 and Supp. 1998)) and the Federal Claims Collection Standards (4 C.F.R. Parts 101-105 (1998)), interest accrues on any and all civil monetary penalties owed and unpaid under the Order, from the date of the Order until paid in full. The rate of interest assessed Najarian is the rate of the current value of funds to the U.S. Treasury on the date that the Order was entered. However, interest is waived on any portion paid within 30 days of the date of the Order. See 31 U.S.C.A. § 3717 and 4 C.F.R. § 102.13.

The civil monetary penalty will be delinquent if not paid by the due dates specified in the Order. If the penalty becomes delinquent, interest will continue to accrue on the balance remaining due and unpaid, and Najarian will also be assessed both an administrative charge to cover the cost of processing and handling the delinquent claim and a penalty charge of six percent per year. However, although the penalty charge will be computed from the date, or dates that the civil penalty becomes delinquent, it will be assessed only on sums due and unpaid for over 90 days after that date, or those dates. See 31 U.S.C.A. § 3717 and 4 C.F.R. § 102.13.

The foregoing constitutes the initial written notice and demand to Najarian in accordance with Section 102.2(b) of the Federal Claims Collection Standards (4 C.F.R. § 102.2(b)).

## UNITED STATES OF AMERICA

## DEPARTMENT OF COMMERCE

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 In the Matter of

 Najarian Furniture Company, Inc.
 

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 ) Case No. 97-15  
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SETTLEMENT AGREEMENT

This agreement is made by and between Najarian Furniture Company, Inc. ("Najarian"), a domestic concern resident in the State of California, and the Office of Antiboycott Compliance, Bureau of Export Administration, United States Department of Commerce ("Department"), pursuant to Section 766.18(a) of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998)) (the "Regulations"), issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 and Supp. 1998)) (the "Act").<sup>1</sup>

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<sup>1</sup>The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).

WHEREAS, the Department has notified Najarian of its intention to initiate an administrative proceeding against Najarian pursuant to Section 11(c) of the Act by issuing the Proposed Charging Letter dated May 19, 1999, a copy of which is attached hereto and incorporated herein by this reference; and

WHEREAS, Najarian has reviewed the Proposed Charging Letter and is aware of the allegations against it and the administrative sanctions which could be imposed against it if the allegations are found to be true; Najarian fully understands the terms of this Settlement Agreement, and enters into this Settlement Agreement voluntarily and with full knowledge of its rights; and Najarian states that no promises or representations have been made to it other than the agreements and considerations herein expressed; and

WHEREAS, Najarian neither admits nor denies the truth of the allegations, but wishes to settle and dispose of the allegations made in the Proposed Charging Letter by entering into this Settlement Agreement; and

WHEREAS, Najarian agrees to be bound by the appropriate Order ("Order") when entered;

NOW, THEREFORE, Najarian and the Department agree as follows:

1. Under the Act and the Regulations, the Department has jurisdiction over Najarian

with respect to the matters alleged in the Proposed Charging Letter.

2. The Department will impose a civil penalty on Najarian in the amount of \$4,000.

Najarian will pay to the Department, in accordance to the terms of the Order, when entered, the amount of \$4,000 in complete settlement of all matters set forth in the Proposed Charging Letter.

3. As authorized by Section 11(d) of the Act, timely payment of the amount agreed to in paragraph 2 is hereby made a condition of the granting, restoration, or continuing validity of any export license, permission, or privilege granted, or to be granted, to Najarian. Failure to make payment of this amount shall result in the denial of all of Najarian's export privileges for a period of one year from the date of entry of the Order.

4. Subject to the approval of this Settlement Agreement, pursuant to paragraph 9 hereof, Najarian hereby waives all rights to further procedural steps in this matter (except with respect to any alleged violation of this Settlement Agreement or the Order, when entered) including, without limitation, any right to:

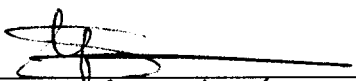
- A. An administrative hearing regarding the allegations in the Proposed Charging Letter;
- B. Request a refund of the funds paid by Najarian pursuant to this Settlement Agreement and the Order, when entered; or

C. Seek judicial review or otherwise contest the validity of this Settlement Agreement or the Order, when entered.

5. The Department, upon entry of the Order, will not subsequently initiate any administrative or judicial proceeding, or make a referral to the Department of Justice for criminal proceedings against Najarian, with respect to any violation of Section 8 of the Act or Part 769 or redesignated Part 760 of the Regulations arising out of the transactions set forth in the Proposed Charging Letter or any other transaction that was disclosed to or reviewed by the Department in the course of its investigation.
6. Najarian understands that the Department will disclose publicly the Proposed Charging Letter, this Settlement Agreement, and the Order, when entered.
7. This Settlement Agreement is for settlement purposes only, and does not constitute an admission by Najarian that it has violated the Regulations or an admission of the truth of any allegation contained in the Proposed Charging Letter or referred to in this Settlement Agreement. Therefore, if this Settlement Agreement is not accepted and the Order not entered by the Assistant Secretary for Export Enforcement, the Department may not use this Settlement Agreement against Najarian in any administrative or judicial proceeding.

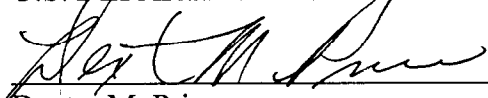
8. No agreement, understanding, representation or interpretation not contained in this Settlement Agreement may be used to vary or otherwise affect the terms of this Settlement Agreement or the Order, when entered, nor shall this Settlement Agreement bind, constrain or otherwise limit any action by any other agency or department of the United States Government with respect to the facts and circumstances herein addressed.
9. This Settlement Agreement will become binding on the Department only when approved by the Assistant Secretary for Export Enforcement by entering the Order.

NAJARIAN FURNITURE COMPANY, INC.

  
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SHAKEN KUPELIAN

DATE: 6/10/99

U.S. DEPARTMENT OF COMMERCE

  
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Dexter M. Price  
Director  
Office of Antiboycott Compliance

DATE: 6/28/99



A634-11

**UNITED STATES DEPARTMENT OF COMMERCE**  
**Bureau of Export Administration**  
Washington, D.C. 20230

PROPOSED CHARGING LETTER

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

May 19, 1999

Najarian Furniture Company, Inc.  
17560 Rowland Street  
City of Industry, California 91748

Attention: Shakeh Kupelian  
Vice President

Case No. 97-15

Dear Sir/Madam:

We have reason to believe and charge that you, Najarian Furniture Company, have committed four (4) violations of the Export Administration Regulations (currently codified at 15 C.F.R. Parts 730-774 (1998), (the "Regulations"),<sup>1</sup> issued pursuant to the Export Administration Act of 1979, as amended (50 U.S.C.A. app. §§ 2401-2420 (1991 and Supp. 1998)) (the "Act").<sup>2</sup>

We charge that with intent to comply with, further or support an unsanctioned foreign boycott, in four instances, you furnished information concerning another person's business relationship

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The alleged violations occurred in 1993, 1994 and 1995. The Regulations governing the violations at issue are found in the 1993, 1994 and 1995 versions of the Code of Federal Regulations (15 C.F.R. Parts 768-799 (1993, 1994 and 1995)). Those Regulations define the violations we allege occurred and are referred to hereinafter as the former Regulations. Since that time, the Regulations have been reorganized and restructured. The restructured Regulations, codified at 15 C.F.R. Parts 730-774, established the procedures that apply to the matters in this letter.

The Act expired on August 20, 1994. Executive Order 12924 (3 C.F.R., 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 C.F.R., 1995 Comp. 501 (1996)), August 14, 1996 (3 C.F.R., 1996 Comp. 298 (1997)), August 13, 1997 (3 C.F.R., 1997 Comp. 306 (1998)) and August 13, 1998 (63 Fed. Reg. 44121, August 17, 1998), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701-1706 (1991 & Supp. 1998)).



with or in a boycotted country, an activity prohibited by Section 769.2(d) of the former Regulations, and not excepted.

We allege that:

1. You are a domestic concern resident in the State of California and, as such, you are a United States person as defined in Section 760.1(b) of the Regulations.
2. Between August 1993 and August 1995, you engaged in transactions involving the transfer of United States origin goods and services, including information, between the United States and Lebanon, activities in the interstate or foreign commerce of the United States as defined in Section 769.1(d) of the former Regulations.
3. In connection with the transactions referred to paragraph 2 above, on or about August 9, 1993, December 29, 1993, December 12, 1994 and August 8, 1995 you prepared original sets of shipping documents, Invoice Nos. 63780, 69595, 85241, and 94799, respectively, for exports to Roumieh, Lebanon. In preparation of each set of documents, you provided the following statement on each invoice:

"... WE UNDERTAKE TO SHIP THE GOODS RELATING TO THIS INVOICE ON A VESSEL WHICH IS NOT ISRAELI OWNED OR CALLING ON ANY PORT IN ISRAEL AND THAT IT IS ALLOWED TO ENTER THE LEBANESE PORTS."

4. On or about August 9, 1993, December 29, 1993, December 12, 1994 and August 8, 1995, you submitted to the Najarian Furniture Company in Roumieh, Lebanon, each set of export documents including the invoices described in paragraph 3 above. By submitting the invoices as described, in each instance, you furnished information concerning another person's business relationships with or in a boycotted country, an activity prohibited by Section 769.2(d) of the former Regulations, and not excepted. We hereby charge you with four violations of Section 769.2(d).

Accordingly, administrative proceedings are instituted against you pursuant to Part 766 of the Regulations for the purpose of obtaining an order imposing administrative sanctions.<sup>3</sup>

You are entitled to a hearing on the record as provided in Section 766.6 of the Regulations. If you wish to have a hearing on the record, you must file a written demand for it with your answer. You are entitled to be represented by counsel, and, under Section 766.18 of the Regulations, to seek a settlement agreement.

If you fail to answer the allegations contained in this letter within thirty days after service as provided in Section 766.6, such failure will be treated as a default under Section 766.7.

As provided in Section 766.3, I am referring this matter to the Administrative Law Judge. Pursuant to an Interagency Agreement between BXA and the U.S. Coast Guard, The U.S. Coast Guard is providing administrative law judge services, to the extent that such services are required under the Regulations, in connection with the matters set forth in this letter. Therefore, in accordance with the instructions in Section 766.5(a) of the Regulations, your answer should be filled with:

U.S. Coast Guard ALJ Docketing Center  
40 South Gay Street  
Baltimore, Maryland 21202-4022

Attention: Administrative Law Judge

Also, in accordance with the instructions in Section 766.5(b) of the Regulations, a copy of your answer should also be served on the Bureau of Export Administration at:

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Administrative sanctions may include any or all of the following:

- The maximum civil penalty of \$10,000 per violation (see Section 764.3(a)(1) of the Regulations);
- Denial of export privileges (see Section 764.3(a)(2) of the Regulations); and/or
- Exclusion from practice (see Section 764.3(a)(3) of the Regulations).

Office of the Chief Counsel for Export Administration  
U.S. Department of Commerce  
Room H-3839  
14th Street & Constitution Avenue, N.W.  
Washington, D.C. 20230

The Office of the Chief Counsel may be contacted by telephone at  
(202) 482-5311.

Sincerely,

Dexter M. Price  
Director  
Office of Antiboycott Compliance